



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
WATER AND WATERSHEDS

October 22, 2010

Mr. Dan Graham, PE
Chuitna Project Manager
PacRim Coal, LP
1007 West 3rd Avenue, Suite 304
Anchorage, Alaska 99501

Dear Mr. Graham:

This letter is written in response to your March 19, 2010, letter requesting the U.S. Environmental Protection Agency, Region 10 (EPA), remain the lead federal agency for the development of the Supplemental Environmental Impact Statement (SEIS) for the proposed Chuitna Coal Project (hereafter referred to as "the project," or "the Chuitna project"). In consultation with our federal, State, and tribal partners in the SEIS process, and after careful consideration of the issues raised in your letter, EPA has determined that we will not continue in our current capacity as lead federal agency for the remainder of the Chuitna SEIS development process.

As you know, we have been in direct discussions with the U.S. Army Corps of Engineers (ACOE) regarding our decision to discontinue our role as lead agency for the Chuitna SEIS and the potential transition of lead agency status to the ACOE. As the only remaining federal agency with a direct National Environmental Policy Act (NEPA) compliance responsibility in the project, the ACOE is the only agency available to assume the lead role on the SEIS. During our discussions with the ACOE, we offered to remain involved in the SEIS process as a cooperating agency. Given our history in the project and the amount of time and resources invested on behalf of PacRim and the agencies, we feel it is important for us to remain involved in the SEIS to maintain continuity and consistency of process, and ensure that the transition of lead agency from EPA to the ACOE will be as smooth as possible. We have recently learned that the ACOE has agreed to assume lead agency status for the Chuitna SEIS and has accepted EPA's offer to serve as a cooperating agency. The transition of lead agency will take place in the next several weeks with formal amendments to the inter-agency Memorandum of Agreement and 3rd Party SEIS Contract. The ACOE has indicated that they will publish a notice in the Federal Register (FR) announcing their presumption of lead agency sometime in late fall 2010.

We are committed to working with the ACOE, PacRim Coal, and our State and tribal partners in the SEIS process to ensure that the transition of lead agency from EPA to the ACOE will be as smooth as possible and not result in unnecessary disruptions to the project or SEIS schedules. Moving forward in our new capacity as a cooperating agency we will retain our technical project team to ensure that we can provide meaningful and timely input in the SEIS process. With the exception of no longer being the National Pollutant Discharge Elimination System permitting authority for the project, the only change in our regulatory role is that we will now be required to review and rate the SEIS pursuant to Section 309 of the Clean Air Act, which

requires EPA to review, comment, and rate EIS's prepared by other federal agencies. The rating system is two-part, with a rating for the level of concern EPA has with potential environmental impacts associated with the project, and a rating on the adequacy of the EIS document. EPA does not conduct 309 reviews for an EIS we lead and prepare. With the transition of lead agency to the ACOE, the Chuitna SEIS will now be the ACOE's NEPA document, and as such, we will be required to review, comment, and rate the SEIS in accordance with Section 309.

We look forward to working with you in our new capacity as a cooperating agency on the SEIS. Should you have any questions regarding this letter or the upcoming transition of lead agency, please contact our point-of-contact for the Chuitna project, Jamey L. Stoddard, at (206)-553-6110 or via email at stoddard.jamey@epa.gov.

Sincerely,



Michael A. Bussell, Director
Office of Water and Watershed
U.S. EPA Region 10

cc: Mr. Allan Nakanishi, ADEC
Mr. Doug Limpinsel, NMFS
Mr. Ed Fogels, ADNR
Ms. Harriet Kaufman, NVT
Mr. Jim Berner, ANTHC
Ms. Judy Bitner, SHPO
Mr. Marcus Mueller, KPB
Ms. Megan Marie, ADFG
Mr. Phil Brna, USFWS
Mr. Russell Kirkham, ADNR
Ms. Serena Sweet, ACOE
Mr. Tom Harris, TNC
Ms. Valerie Randall, AECOM